



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08..11..2019
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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.15886 of 2017
and
W.M.P.Nos.17194, 29850 & 29851 of 2017 &
W.M.P.No.31630 of 2019

M.Jayashree

... Petitioner

-Versus-

1. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Marketing Division,
Indian Area Office,
No.500, Anna Salai,
Teynampet, Chennai 600018.

2.Srinivasan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the order of the 1st respondent dated 16.05.2017 in LOI Ref. No.2017/IN000027/TN/000011/4112/00002 and to quash the same and consequently direct the 1st respondent to conduct redraw only among eligible candidate from K.V.Kuppam Panchayat for the award of Rajiv Gandhi Grama LPG Vitrak, Katpadi Taluk, Vellore District.

[Prayer amended as per order dated 10.11.2017 by order in W.M.P.No.29849 of 2017 in W.P.No.15886 of 2017]

For Petitioner	: Mr.A.K.R.Ravi
For Respondent(s)	: Mr.Abdul Saleem for R1 Mr.K.Sivasubramanian for R2



ORDER

This writ petition has been filed challenging the order of allotment of LPG dealership in favour of the 2nd respondent.

2. The 1st respondent called for applications for allotment of LPG dealership under "Ravji Gandhi Gramin LPG Vitrak Yojana" scheme at K.V.Kuppam village in other backward class (OBC) category. Pursuant to the same, the 1st respondent received 13 applications and selection was made by draw in which the petitioner also participated and in the draw, the 2nd respondent was selected.

3. Thereafter, the petitioner has sent a complaint to the 1st respondent alleging that the 2nd respondent is not belonged to K.V.Kuppam village and as per the brochure, persons residing at K.V.Kuppam village alone are entitled to apply for dealership. Therefore, the petitioner had sought for cancellation of dealership awarded / offered to the 2nd respondent. Based on such complaint, the 1st respondent conducted an enquiry and on the basis of communication dated 30.09.2014 sent by the Tahsildar, Katpadi, stating that the 2nd respondent is a resident of P.K.Puram Panchayat, the 1st respondent rejected the application of the 2nd respondent for dealership by letter dated 17.10.2014.

4. Aggrieved by the rejection, the 2nd respondent filed a writ petition before this court in W.P.No.5535 of 2015 for issuance of a direction to the Tahsildar, Katpadi Taluk, to furnish correct particulars regarding the nativity of the 2nd respondent and to withdraw his earlier communicated dated 30.09.2014. This court, by order dated 13.02.2015 disposed the writ petition with a direction to the Tahsildar to consider the representation of the 2nd respondent and to conduct an enquiry to ascertain the nativity and to issue a certificate and to communicate the same to the 1st respondent corporation. Pursuant to the above order, the Tahsildar, Katpadi Taluk, had conducted an enquiry and found that the 2nd respondent is a native of K.V.Kuppam village having residence at at Door No.1/82, Bazaar Street, K.V.Kuppam village. This was also communicated to the 1st respondent corporation. Based on the above report, the 1st respondent has awarded the LPG dealership to the 2nd respondent by order dated 16.05.2007. It is this order which is now under challenge in this writ petition.

5. Pending writ petition, the petitioner filed a petition in W.M.P.No.31630 of 2019 seeking to implead the Tahsildar, Katpadi Taluk, as 3rd respondent in the writ petition. The learned counsel appearing for the respective respondents vehemently



opposed the same.

6. The learned counsel for the petitioner submitted that the 2nd respondent is not a resident of K.V.Kuppam village. Even as per the sale deed standing in his name, the 2nd respondent is not a resident of K.V.Kuppam village and he is a resident of P.K.Puram village. Earlier, the Tahsildar, Katpadi Taluk had also submitted a report to the 1st respondent to the effect that the 2nd respondent was the resident of P.K.Puram. Based on that report of the Tahsildar, the 1st respondent had rejected the selection of the 2nd respondent. Thereafter, without conducting any enquiry what so ever and without giving an opportunity to the petitioner and in violation of principles of natural justice, the 1st respondent has offered the dealership to the 2nd respondent. Thus, the impugned order is liable to be set aside.

7. Per contra, the learned counsel appearing for the 1st respondent submitted that though the 2nd respondent was selected in the draw of lot for dealership, on a complaint made by the petitioner alleging that the 2nd respondent was not the resident of K.V.Kuppam village, the 1st respondent called for a report from the Tahsildar and based the report of the Tahsildar, Katpadi Taluk, the 1st respondent rejected the application of the 2nd respondent on the ground that he was not the resident of K.V.Kuppam village. However, pursuant to the directions issued by this court in a writ petition, the Tahsildar again submitted a report to the 1st respondent stating that the 2nd respondent is a resident of K.V.Kuppam village and based on such information only, the 1st respondent offered the dealership to the 2nd respondent. Thus, according to the learned counsel no illegality or irregularity can be attached to the same.

8. The learned counsel for the 2nd respondent contended that the 2nd respondent is a resident of K.V.Kuppam village, however, the Tahsildar had given a wrong certificate mentioning that the 2nd respondent is a resident of P.K.Puram. The mistake was however corrected by the Tahsildar pursuant to the directions of this court in a writ petition filed by the 2nd respondent. Pursuant to the report of the Tahsildar to the effect that the 2nd respondent is a resident of K.V.Kuppam village, the 1st respondent offered the dealership to the 2nd respondent. Even the address mentioned in the sale deed standing in favour of the 2nd respondent would go to show that he is a resident of K.V.Kuppam panchayat.

9. I have considered the rival submissions carefully.



10. The primordial contention of the petitioner is that when selection of the 2nd respondent for the award of LPG dealership was rejected already based on the residential certificate issued by the Tahsildar, Katpadi, pursuant to the complaint given by the petitioner, the 1st respondent ought not to have awarded the LPG dealership again to the 2nd respondent without conducting any enquiry and without issuing any notice to the petitioner. That apart, according to the learned counsel, the other documents available would clearly go to show that the 2nd respondent is not the resident of K.V.Kuppam village and he is the resident of P.K.Puram.

11. It is not in dispute that on a complaint made by the petitioner, the selection of the 2nd respondent had been cancelled by the 1st respondent on the ground that he was not the resident of K.V.Kuppam. When the 2nd respondent approached this court seeking a mandamus against the Tahsildar, Katpadi Taluk, this court by order dated 13.02.2015 disposed of the writ petition giving directions to the Tahsildar, Katpadi Taluk. The relevant portion of the order of this Court dated 13.02.2015 made in W.P.No.5535 of 2015 reads as follows:-

"4. Accordingly, there will be a direction to the 2nd respondent to consider the petitioner's representation dated 13.02.2015, issue notice to the petitioner and after affording an opportunity of personal hearing to the petitioner, conduct an enquiry and ascertain the correct nativity of the petitioner and issue certificate and communicate the same to Indian Oil Corporation Limited."

12. Pursuant to the order of this court, the Tahsildar, conducted a detailed enquiry and had come to a conclusion that the 2nd respondent is the resident of K.V.Kuppam village and submitted a report to the 1st respondent as directed by this court. Thereafter, on the basis of the subsequent nativity certificate issued by the Tahsildar to the effect that the 2nd respondent is a native of K.V.Kuppam village, the 1st respondent has proposed to offer dealership on certain conditions. If at all the petitioner has got any grievance over the report submitted by the Tahsildar, the remedy open to the petitioner is to challenge the same in the manner known to law and to establish that the order of the Tahsildar dated 23.01.2017 is not correct. Without challenging the order passed by the Tahsildar, the petitioner cannot challenge the subsequent order passed by the 1st respondent. Thus, the writ petition fails and the same deserves only to be dismissed.



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13. Considering the facts and circumstances of the case and also the fact that the report of the Tahsildar was not put under challenge in this writ petition, this court is of the view that Tahsildar, Katpadi Taluk, is not at all a necessary party to the writ petition and therefore, the impleading petition is liable only to be dismissed.

14. In the result, this writ petition is dismissed and the impleading petition is also dismissed. No costs. Consequently, the other connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

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To

The Chief Area Manager,
Indian Oil Corporation Ltd.,
Marketing Division,
Indian Area Office,
No.500, Anna Salai,
Teynampet, Chennai 600018.

+1 CC to Mr.A.K.R.Ravi, Advocate sr 93430.

+1 CC to Mr.T.M. Hariharan, Advocate sr 93220.

Writ Petition No.15886 of 2017

GJ(CO)
SP(27/01/2020)